



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	WOOD	FIRST NAMED INVENTOR	T	ATTORNEY DOCKET NO.
08/806,186	02/23/97				

D3M1/1209

CHARLES C. LEVINE
3M OFFICE OF INTELLECTUAL PROPERTY
COUNSEL
P. O. BOX 33427
ST. PAUL MN 55133

DAVIS, J EXAMINER

1 ART UNIT	PAPER NUMBER
------------	--------------

12/09/97

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/806,186	Applicant(s) Wood	
	Examiner Jenna Davis	Group Art Unit 1314	

Responsive to communication(s) filed on 9/16/97

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) 10 is/are allowed.

Claim(s) 1-9 and 11 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1314

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 to 3, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McKay.

McKay shows prior art materials which are wound on a roll and then weakened by having cuts made diametrically toward the center of the roll. If these materials were unwound, they would produce a sheet material where the distance between weakened areas changed continually along the length like the materials claimed here. If these materials were subsequently wound onto a roll of smaller diameter, then a material with the claimed overlap would be produced, and thus this intended use limitation fails to define the material claimed here from McKay.

4. Claims 4 to 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKay.

The teachings of McKay are set forth above. The reference is not specific as to the spacing that would result when the material is cut diametrically, however, it appears that by routine experimentation one would arrive at the material spacing claimed here.

5. Claim 10 is allowed.

Art Unit: 1314

6. Applicant's arguments filed September 16, 1997, have been fully considered but they are not persuasive.

The argument that McKay fails to suggest the claimed overlap is not persuasive because the claims that are rejected over McKay are drawn to a sheet material, *per se*, and not to a sheet material configured such that any overlap is provided. The present claims do not require the material to be configured in any particular manner, only to be capable of being so configured. This is an intended use limitation that does not distinguish the claimed material from the material of McKay. The McKay sheet material has this capability, and anticipates or at least renders obvious the presently claimed sheet material. It is noted that claim 10, which does require the sheet to be configured in a roll with the overlap argued has been allowed. If the other claims were amended to recite a roll of material with the overlap argued, then such claims would be allowable.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Art Unit: 1314

8. Any inquiry regarding this communication or earlier communications from the Examiner should be directed to Jenna Davis, whose telephone number is (703) 308-2429. The Examiner can normally be reached Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marion McCamish, can be reached on (703) 308-3961. A facsimile center has been established in Group 1300, Crystal Mall 1, Room 8D10. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 305-5436. This location should be used in all instances when faxing any correspondence to Art Unit 1314. Use of the Group 1300 center will facilitate rapid delivery of materials to Examiners in Art Unit 1314.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

Jenna Davis
Jenna Davis
Primary Examiner
Group 1300

jd
12/8/97